

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

THE HEIDI GROUP, INC.,

Plaintiff,

v.

TEXAS HEALTH AND HUMAN
SERVICES COMMISSION, *et al.*,

Defendants.

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1:22-CV-294-RP

ORDER

Before the Court is the report and recommendation of United States Magistrate Judge Mark Lane concerning the Official¹ State Defendants’ Motion for Judgment on the Pleadings, (Dkt. 2), the Individual² State Defendants’ Motion for Judgment on the Pleadings, (Dkt. 3), and Defendant Phyllis Everett Morgan’s (“Morgan”) Motion for Judgment on the Pleadings, (Dkt. 21). (R. & R., Dkt. 30). In his report and recommendation, Judge Lane recommends that the Court grant in part and deny in part each motion. Objections to the report and recommendation were timely filed by Plaintiff, (Objs., Dkt. 33), the Official and Individual State Defendants, (Objs., Dkt. 32), and Morgan, (Objs., Dkt. 31), respectively.

A party may serve and file specific, written objections to a magistrate judge’s findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C.

§ 636(b)(1)(C). Because each of the parties timely objected to the report and recommendation, the

¹ “Official State Defendants” includes Cecile Erwin Young, Sylvia Kauffman, Dirk Johnson, Jennifer Kaufman, and Gaylon Dacus, insofar as each of them has been sued in their official capacity. It also includes Texas Health and Human Services Commission (“HHSC”) and the HHSC Office of Inspector General (“OIG”).

² “Individual State Defendants” includes Dirk Johnson, Jennifer Kaufman, and Gaylon Dacus, insofar as each of them has been sued in their individual capacity.

Court reviews the report and recommendation *de novo*. Having done so, the Court overrules each party's objections and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the report and recommendation of United States Magistrate Judge Mark Lane, (Dkt. 30), is **ADOPTED**.

Having done so, and for the reasons stated in the report and recommendation, **IT IS FURTHER ORDERED** that the Official State Defendants' Motion for Judgment on the Pleadings, (Dkt. 2), the Individual State Defendants' Motion for Judgment on the Pleadings, (Dkt. 3), and Morgan's Motion for Judgment on the Pleadings, (Dkt. 21), are respectively **GRANTED IN PART** and **DENIED IN PART**. The motions are **GRANTED** as to the following claims:

- (1) Plaintiff's standalone federal constitutional claims (Count I) are **DISMISSED** with leave to replead those claims under § 1983;
- (2) Plaintiff's due process claim against Defendants Sylvia Kauffman, Dirk Johnson, Jennifer Kaufman, and Gaylon Dacus (Count I) is **DISMISSED WITH PREJUDICE**;
- (3) Plaintiff's CFAA claims, both as a freestanding claim (Count II) and under § 1983 (Count III), are **DISMISSED WITH PREJUDICE**; and
- (4) Plaintiff's Texas Government Code § 2400.002 claim (Count V) is **DISMISSED WITH PREJUDICE**.

The motions are **DENIED** as to all other claims.

IT IS FURTHER ORDERED that should Plaintiff The Heidi Group, Inc. choose to amend its claims subject to the limitations outlined by the Court, it must do so **on or before April 27, 2023**.

SIGNED on March 30, 2023

A handwritten signature in blue ink, appearing to read "R. Pitman", written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE